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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,901	07/20/2004	Peter Hajdukiewicz	120314	8570

25944 7590 12/06/2005

OLIFF & BERRIDGE, PLC  
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EXAMINER
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BENNETT, GEORGE B

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

2/2

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/501,901	HAJDUKIEWICZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	G. Bradley Bennett	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by McMurtry (US Pat. No. 4,158,919).

3. '919 discloses the invention as claimed where: a probe with a housing and a movable member is illustrated in FIG 1; and two transducer systems as claimed are described in col. 1, ll. 17-30.

4. Claims 9 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McMurtry (US Pat. No. 5,048,194).

5. '194 discloses the invention as claimed where: a probe with a housing and a movable member is illustrated in FIG 1; the device may be held in a rest position as described in col. 3, ll. 60-64; a digitizing circuit is illustrated in FIG 3; and the circuit is initially set to zero, as described in col. 5, l. 65 through col. 6, l. 4.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2859

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over '919 in view of Baxter (US Pat. No. 5,209,131).

8. '919 discloses the invention as claimed. However, '919 does not disclose the specific biasing system as claimed. '131 discloses to bias a probe in a defined rest position for the purpose with respect to a plurality of axes for the purpose of setting the probe in an initial measuring position. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use the biasing means as taught by '131 in combination with the '919 device for the purpose of the setting the probe of '919 in an initial measuring position.

9. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over '194 in view of Baxter (US Pat. No. 5,209,131).

10. '194 discloses the invention as claimed. However, '194 does not disclose the specific biasing system as claimed. '131 discloses to bias a probe in a defined rest position for the purpose with respect to a plurality of axes for the purpose of setting the probe in an initial measuring position. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use the biasing means as taught by '131 in combination with the '194 device for the purpose of the setting the probe of '194 in an initial measuring position.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Bradley Bennett whose telephone number is 571.272.2237.

The examiner can normally be reached on M-TH 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on 571.272.2245. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

  
G. Bradley Bennett  
Primary Examiner  
Art Unit 2859

gbb  
2 DEC 2005